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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 JUNE ELIZABETH BROGDON,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON
14 CHILDREN'S ADMINISTRATION, et
al.,

15 Defendants.

CASE NO. C19-5332 BHS

ORDER DISMISSING
PLAINTIFF'S COMPLAINT AND
CLOSING CASE

16 This matter comes before the Court on review of Plaintiff June Elizabeth
17 Brogdon's ("Brogdon") amended complaint. Dkt. 8.

18 On April 22, 2019, Brogdon filed a motion to proceed *in forma pauperis* and a
19 proposed complaint. Dkts. 1, 1-1. On May 6, 2019, United States Magistrate Judge
20 Theresa Fricke granted Brogdon's motion and recommended that the Court review the
21 complaint before ordering service. Dkt. 4. On May 30, 2019, the Court identified
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1 deficiencies in Brogdon's complaint, dismissed the complaint, and granted Brogdon leave
2 to amend. Dkt. 7. On June 10, 2019, Brogdon filed an amended complaint. Dkt. 8.

3 Brogdon alleges that Defendants illegally seized her children in May 2012 and
4 requests that the Court (1) clear her record with the Children's Administration, (2)
5 reverse the adoptions of her children, (3) restore her parental rights, (4) return her
6 children, and (5) award actual and punitive damages. *Id.* at 6.

7 Upon review of the complaint, the Court finds that dismissal is warranted. *See*
8 *Omar v. Sea Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may
9 dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) Such a dismissal may be
10 made without notice where the claimant cannot possibly win relief."). Brogdon's claims
11 for violations of her constitutional rights are insufficient because they are conclusory. To
12 state a claim under 42 U.S.C. § 1983, plaintiff must allege facts showing how a defendant
13 caused or personally participated in causing the harm alleged in the complaint. *Leer v.*
14 *Murphy*, 844 F.2d 628, 633 (9th Cir. 1988). A person subjects another to a deprivation of
15 a constitutional right when committing an affirmative act, participating in another's
16 affirmative act, or failing to perform an act which is legally required. *Johnson v. Duffy*,
17 588 F.2d 740, 743 (9th Cir. 1978). Sweeping conclusory allegations against an official
18 are insufficient to state a claim for relief. *Leer*, 844 F.2d at 633. Further, a § 1983 suit
19 cannot be based on vicarious liability alone but must allege the defendant's own conduct
20 violated the plaintiff's civil rights. *City of Canton v. Harris*, 489 U.S. 378, 385-90
21 (1989).
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1 In this case, Brogdon fails to state a claim against any individual defendant or
2 provide any detailed allegations against the entity defendants. The amended complaint
3 lists only the Children’s Administration as a defendant, which is not subject to suit under
4 42 U.S.C. § 1983. *See Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 64, 71
5 (1989)(“Neither a State nor its officials acting in their official capacities are ‘persons’
6 under § 1983.”). Moreover, all of the alleged violations appear to have happened in 2012
7 and any § 1983 claim would be barred by the applicable statute of limitations. *See*
8 *Montero v. Washington State Patrol*, C05-1092C, 2005 WL 3500832, at *3 (W.D. Wash.
9 Dec. 21, 2005) (“the Court finds that Plaintiffs’ cause of action under § 1983 is subject to
10 a three-year limitations period.”). Therefore, the Court *sua sponte* dismisses her
11 complaint.

12 The final question is whether the Court should grant Brogdon leave to amend. “A
13 pro se litigant must be given leave to amend his or her complaint, and some notice of its
14 deficiencies, unless it is absolutely clear that the deficiencies of the complaint could not
15 be cured by amendment.” *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).
16 However, “[t]he trial court’s discretion to deny [leave to amend] is particularly broad
17 where, as here, a plaintiff previously has been granted leave to amend.” *Griggs v. Pace*
18 *Am. Grp., Inc.*, 170 F.3d 877, 879 (9th Cir. 1999).

19 In this case, the Court finds that leave to amend is not warranted. The Court
20 granted Brogdon leave to amend and Brogdon failed to correct the identified deficiencies.
21 Additionally, Brogon asserted similar claims in a previous suit that was dismissed. *See*
22 *Brodgon v. State of Washington*, C16-6017-RBL, (W.D. Wash. April 10, 2017) (order

1 denying motion to proceed *in forma pauperis*). Therefore, the Court dismisses Brogdon's
2 complaint for failure to state a claim and without leave to amend. The Clerk shall
3 terminate the pending motions, enter a JUDGMENT, and close this case.

4 **IT IS SO ORDERED.**

5 Dated this 13th day of June, 2019.

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8 BENJAMIN H. SETTLE
9 United States District Judge
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